IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.894 OF 2005
IN
NOTICE OF MOTION NO.2008 OF 2005
IN
SUIT NO.1868 OF 2005

Citadel Aurobindo Biotech Ltd. & Anr. .. Appellants
V/s
Medley Pharmaceuticals Ltd. .. Respondents

Mr.Gopal Krishnan i/by Mr.M.A.Mahadgut for the Appellants.

Mr.I.Chagla, Sr.Advocate with Mr.V.R.Dhond i/by M/s.Bharat Shah & Co. for the Respondents.

CORAM: DR.S.RADHAKRISHNAN &
S.C.DHARMADHIKARI, JJ.

DATE : 21.10.2005.

P.C.:

1. Heard the learned Counsel for the parties. By this Appeal the Appellant is challenging the ad-interim order dated 22nd August, 2005 whereby the learned Single Judge has restrained the Appellant from using the trade mark "Atoril", for the prima-facie reasons set out in the impugned order. It appears that the Appellant had in fact moved the City Civil Court at Hyderabad against the present Respondents and had obtained an ad-interim injunction against the Respondents from using the trade mark "Atorin". However, later the said order came to be vacated by the City Civil Court of Hyderabad.

2. We have perused the impugned order. The learned Single Judge has observed that prima-facie both the trade marks are deceptively similar in its phonetic sound and by get-up. For the reasons recorded in the impugned order, the learned Single Judge has granted

ad-interim relief in terms of prayer clause (a) of the Notice of Motion No.2008/2005. We do not find any error in the said order to interfere. However, in the larger interest of justice, we request the learned Single Judge to expedite the hearing of the Notice of Motion and dispose of the same at the earliest.

3. The learned Counsel for the Appellants states that within a period of two weeks from today, the Appellants will file further affidavit in reply. The Respondents shall file affidavit in rejoinder within a period of two weeks thereafter. Both the parties are at liberty to move the learned Single Judge thereafter for a fixed date of hearing.

4. Appeal stands disposed of in terms of the above.

(DR.S.RADHAKRISHNAN, J.)

(S.C.DHARMADHIKARI, J.)